



Nov. 20, 2012

USEPA
National Remedy Review Board

RE: Passaic River Superfund Site, 8-mile Study

To Whom it May Concern:

Please accept this letter solely on the behalf of NY/NJ Baykeeper. Since 1989, we have served as citizen advocate for the bays, streams, and shores of the Estuary. Baykeeper stops polluters, champions public access, influences land use decisions, and restores habitat - benefiting the natural and human communities of our watershed.

I write to express our strong opposition to any remedy that would bury contaminated Passaic River sediments in Newark Bay. A few years ago stakeholders meet with USEPA Regional Administrator Judith Enck to discuss the status of the remediation of the Passaic River. During this meeting several objections were raised by Baykeeper and other attendees to the idea of creating a CAD cell or CDF in Newark Bay to dispose of the contaminated sediments. These include:

- Hazardous sediments would be more safely and professionally disposed and monitored of at a federally permitted RCRA facility than in an underwater pit in Newark Bay. RCRA requires facilities with double liners, real time monitoring and consistent government oversight. They are sited in areas that ensure public safety and feature redundant safety measures. As we have seen with the existing CAD in Newark Bay, application of these measures are much more complicated and, in some cases, not achievable. Additionally, we understand that at least one barge missed the existing CAD cell completely when depositing a load of contaminated sediments.
- The CAD would be built in a tidal bay, subject to the erosive force of tides, river currents, port traffic and storm surges. It would bury millions of cubic yards of highly contaminated sediment in the middle of a population center of over half a million people.

- Depending on the remediation alternative, the area required for the CAD(s) would be considerable, causing significant impacts to the bottom of Newark Bay and essential fish habitat.
- Re-suspension remains a major concern. As noted at that meeting, the most toxic pollutants bind to fine silt, and would be especially susceptible to re-suspension.
- There is the ominous unanswered question of whether Newark Bay would become the final disposal site for all manner of hazardous materials, including Superfund sites from around the NY/NJ Harbor such as the Gowanus Canal and Newtown Creek. For the reasons listed above, the only thing worse than burying some of the region's hazardous waste in the Bay would be burying ALL of its waste there.

We also recommend that this disposal option be removed from the FFS completely. Until we understand the true life-cycle costs of burying dioxin-contaminated waste in Newark Bay, we cannot contemplate this option within a fair playing field.

Recently, I participated in a year-long workgroup convened by the US Army Corps of Engineers, New York District, on disposal options for NY-NJ Harbor Maintenance dredged material. The purpose of the workgroup was to examine disposal options for dredged material removed from Harbor shipping channels in future years. This material, while elevated for some contaminants of concern, does not reach the same levels of contamination as the Passaic River sediments. The final document is still in draft form, but the consensus of the workgroup is to not recommend the building of CAD cells to bury the dredged material. This workgroup was made up of state and federal agencies, maritime interests and nonprofits organizations – representing a diverse range of interests and opinions. Once finalized, this document would become a guidance document for Army Corps decisions. I find it telling that this workgroup has already had the foresight to take aquatic disposal off the table when it comes to Harbor maintenance dredged material knowing the community opposition and uncertainties associated with this option.

Additionally, Baykeeper supports the return of a navigational channel to the lower Passaic River. This waterway was once a vibrant economic backbone for our communities. Restoring a channel to the River will help support the development of working waterfronts, take trucks off local roads for transportation purposes, and encourage increased use by recreational power boats.

Thank you in advance for your thoughtful review of Baykeeper's concerns.

Sincerely,

Deborah Mans

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